

REMARKS

Reconsideration is respectfully requested.

This Amendment and Response is submitted in response to the Notice of Non-Compliant Amendment having a mailing date of January 19, 2010, setting forth a one-month or thirty day period for reply, whichever is longer. This Amendment and Response constitutes Applicants' response to such Notice.

Interview Summary

Applicants wish to thank the Examiner for speaking with Applicants' representative *via* telephone on February 17, 2010. During this discussion, the pending Notice of Non-Compliant Amendment was discussed. Claim numbering was also discussed, and agreement reached.

Status of the Claims

Claims 3, 10, 14-27, 29-36, and 38-40 were previously cancelled. Claims 41 and 42 are currently amended. Upon entry of this Amendment, claims 1, 2, 4-9, 11-13, 28, 37, 41 and 42 will be pending.

The claims have not been re-numbered as indicated in the Notice of Allowability dated August 7, 2009 or the Supplemental Notice of Allowability dated September 2, 2009.

Applicants have not publicly dedicated or abandoned any unclaimed subject matter, and have not acquiesced to any rejections made by the Office in any prior Office action. Applicants reserve the right to pursue prosecution of any presently or previously excluded or cancelled claim embodiments in one or more future continuation and/or divisional applications.

The claims, as presented in the instant Listing of Claims, conform with the prior version of claims as amended by the Examiner's Amendment of August 7, 2009 and the Supplemental Examiner's Amendment of September 2, 2009. As set forth in the Examiner's Amendment of August 7, 2009:

Claim 14 has been cancelled without prejudice.

In each of claims 1, 2, 4 and 11, after the term "salt" the phrase ", hydrate or solvate" has been deleted.

As set forth in the Supplemental Examiner's Amendment of September 2, 2009:

The dependencies of each of claims 5, 8 and 11 have been amended to delete "Claim 1, Claim 2 or Claim 3" and to insert "Claim 1 or Claim 2", thus reflecting the cancellation of claim 3.

Amendments to Claims

Claims 41 and 42 have been amended to remove the phrase ", hydrate or solvate", consistent with the Examiner's Amendment of August 7, 2009. These amendments remove subject matter and are thus fully supported by the specification as originally filed and add no new matter.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully submit that the claims are directed to patentable subject matter. Applicants therefore respectfully request the Examiner's reconsideration of the application and the timely allowance of the claims.

This Amendment and Response is being submitted within the one month period for reply. Accordingly, Applicants believe that no fees or petitions are due for the filing of this Amendment and Response. However, should any such fees or petitions be required, the Commissioner is authorized to charge such fees to Dorsey & Whitney LLP Deposit Account No. 04-1415.


Appl. No. 10/816,551
Amendment dated February 17, 2010

PATENT

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-629-3400.

Respectfully submitted,

Date: February 17, 2010



David L. Walker
Reg. No. 53,735

Dorsey & Whitney LLP
Republic Plaza Building
370 Seventeenth Street, Suite 4700
Denver, Colorado 80202-5647
Tel: 303-629-3400
Fax: 303-629-3450

4833-8178-2789\1